

Congress of the United States
Washington, DC 20515

April 25, 2007

The Honorable Leslie Norwalk
Acting Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue S.W.
Washington, D.C. 20201

Dear Ms. Norwalk:

On January 25th, 2007, the Centers for Medicare and Medicaid Services (CMS) published a proposed regulation that introduces significant changes to the way “long term acute care” (LTAC) hospitals are reimbursed by Medicare. We have concerns that this proposal continues a misguided policy of arbitrary cuts, as opposed to developing appropriate patient criteria for admissions into these facilities. Consequently, we urge you to rescind the rule and instead work with us to develop appropriate patient admission criteria for LTAC hospitals. **We also urge you to initiate a standstill of the continued phase-in of the 25% rule.**

LTAC hospitals serve a vital role in the Medicare program by providing care to beneficiaries with clinically complex conditions that need hospital care for extended periods of time. These are patients who are too sick to go home or even to a skilled nursing facility (SNF), but are stable enough to be released from an intensive care unit. They serve an important purpose in the continuum of care. With that being said, we appreciate concerns raised by CMS that the industry has experienced significant growth over a short timeframe. In addition, we also recognize CMS’s concerns that certain facilities are admitting patients better served by SNFs or some other level of care; however, we believe the path taken by CMS is resulting in arbitrary across-the-board cuts that are hurting access to this important care.

The Medicare Payment Advisory Commission (MedPAC) found that LTAC hospital margins are between 0.1% and 1.9% (MedPAC Report to Congress, March 2007). Yet, CMS projects the proposed rule would reduce payments by 2.9%, which results in rates below the cost of care. In addition, the rule proposes a payment penalty for freestanding LTAC hospitals for every patient over a 25% cap that comes from any single acute care hospital referral source and would revoke “grandfather” status from certain “Hospital within Hospital” LTAC hospitals that have been exempt from this rule. The proposed rule also suggests paying LTAC hospitals a reduced rate for short stay outlier (SSO) cases despite the fact that CMS finalized a rule just last year that pays LTAC hospitals no greater than cost for SSO cases.

These policy decisions serve no other purpose than to slash payments for all LTAC hospitals, leaving many on the brink of closure. We believe a much more prudent and effective strategy would be to develop LTAC hospital certification criteria and create a patient admission assessment. These two proposals would ensure that the right kind of patient is being admitted to LTAC hospitals and would also result in savings to the Medicare program. MedPAC made a similar recommendation in 2004, and we believe the time has come for CMS to adopt them in order to ensure that beneficiaries are being placed in the right level of post-acute care.

We appreciate your attention to the important issues related to LTAC hospitals raised in this letter. Ensuring access to these facilities for those who truly need it is vitally important, and we urge you to reverse CMS's current course of arbitrary, across-the-board cuts in favor of a more targeted effort to get the right type of patient into LTAC hospitals.

Very truly yours,

Bethesda

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